GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, Madanapalle town and mandal, Chittoor District, against the proceedings Roc. C3/5455/2008, dt: 06.12.2009 of the District Collector, Chittoor - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.70 Dated:04.06.2016

Read the following:

1. Proceedings of the District Collector, Chittoor, Roc.C3/5455/2008, dt:06.12.2009.
2. Appeal Petition filed by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, Madanapalle town and mandal, Chittoor, Dist., before M(TW) on 25.01.2010.
3. Govt. Memo No. 1021/CV.2/2010, S.W(CV.2) Department, dt.18.06.2010.
4. Order of the Hon'ble High Court of A.P., in W.P. No.28059/2010, dated 19.11.2010.
5. From the District Collector, Chittor, Lr.No.Roc.C3/8089/2010, dated: 25.10.2010
6. Govt. Memo No. 1021/CV.2/2010, S.W(CV.2) Department, dated: 20.10.2012,16.01.2013, 14.10.2014, 24.11.2014 & 23.02.2015.
7. Govt. Memo No. 1021/CV.2/2010, S.W(CV.2) Department, dated: 02.04.2015.
8. Written arguments filed by the mother of the appellants i.e. Smt. K. Sarojini before the Government, dated17.07.2015.

*****

ORDER:

In the reference 1st read above the District Collector, Chittoor has issued orders canceling ST- Yanadi Caste Certificates obtained from the then Tahsildar, Madanapalle by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, Chittoor District.

2. In the reference 2nd read above, Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, have filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Chittoor. After examining the said Appeal Petition, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, have filed W.P.No.28059/2010 before the Hon'ble High Court, against the Govt. Memo No.1021/CV.2/2010 dated 18.06.2010 of the Government rejecting the stay on the said proceedings of the District Collector, Chittoor. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 19.11.2010 has granted stay on the said proceedings of the District Collector, Chittoor, dated 06.12.2009 and directed that Government shall take up the appeal for consideration and decide the same on merits, after providing an opportunity of hearing the petitioners herein within a maximum period of six months from the date of receipt of the order. But due to several administrative difficulties the matter could not be disposed before the said date however, after giving notices from time to time to the appellants through their Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, Chittoor has furnished the Parawise remarks and connected records on the said Appeal Petition filed by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, Chittoor District.

[P.T.O]

5. The said Appeal Petition has been posted for hearing on 30.10.2012, 21.01.2013, 25.10.2014, 13.12.2014, 28.02.2015 & finally on 18.04.2015 and the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th read above. The mother of the Appellants, has argued the case and explained their community status and filed Written Arguments before the Government in support of their community claim in the reference 8th read above.

6. After heard both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the appellant/ the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chittoor dated 06.12.2009, it is observed that the claim of Appellants that their father is 2nd son of Late Sri Boduru Rajamma and Smt. Boduru Kannaiah, who belong to ST-Yanadi Community. After, expiry of their Grandfather their father lived with his sister (Smt. K. Kamalamma). Further, one Srinivasulu at Madanapalli and his sister joined him into the school at madanapalli and wrongly recorded in the school records in respect of Grandfather of appellants as K. Srinivasulu instead of kannaiah. Further they have stated that their Grandmother got job in DNT Boys Hostel at madanapalle as cook and her caste was recorded as YANADI(ST), in the Government records and their father was shown in column No.7 as nominee by mentioning as 2nd son. Finally they have claimed that their father belongs to ST-Yanadi community and Mother belongs to OC-Balija community.

7. Further it is observed that as complaint is made by Sri K. Krishnamoorthy S/o K. Venkataramana of Madanapalle town to the effect that Sri K.S.Chakravathy, the father of the appellants is husband of his own sister Smt. K. Saroja. The said Sri K.S. Chakravathy and his wife Smt. K. Saroja, belong to OC-Balija community. Further as per the certificates of Study, Conduct, Caste and Date of Birth, bearing admission No.1326, dt: 04.08.2007 issued by the Head Master, Giri Rao, Theosophical High School, the caste of Sri. K.S.Chakravarthy is clearly recorded as 'Balija', but he managed the officials and obtained the false caste certificates as ST-Yanadi. Further, the name of the father of Sri K.S.Chakravarthy (Father of the Appellants) is Sri K.Srinivasulu not Kannaiah.

8. Further it is observed that as per G.O.Ms.No.371 Employment and Social Welfare (B2) Department dated 13.04.1976 in Annexure-II at para 4 has stated that "in the case of marriage between a tribal with a non-tribal the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstances may be Scheduled Tribe woman may have children from marriage with a non- Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accepted them and treat them as members of their own community."

9. Further it is also observed that the appellants have not produced any relevant documents/material in support of their ST-Yanadi community claim i.e. their Grandfather Smt. Boduru Kannaiah belongs to ST-Yanadi community before the Appellate Authority at the time of hearing except school record, which is generate based on declaration given by the parents. Hence it can be held that mere school certificates cannot be accepted as reflection of true caste of person. Further there is no evidence that the appellants belong to ST-Yanadi Community and the appellants failed to produce any evidence even though lot of opportunity was given to them even by the Government. Further the appellants have failed to prove that their grandparents, their father or any relatives belong to ST-Yanadi community. They are not aware of their culture, traditions and customs of Yanadi Community. Thus the old evidence of appellants is self defeating. The burden on the appellant U/S 6 is not discharged.

[Contd…]

Hence Government have examined the entire record & material relevant to the instant case and it is decided that the appellants obtained caste certificate fraudulently and the appellants have no iota of evidence to show that their grandparents or their father or any relatives belong to ST-Yanadi community. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity found either in the order of the learned DLSC or the District Collector, Chittoor.

10. In so far as the decision cited by the appellants, to show that with the marriage of an ST male person, his wife becomes Schedule Tribe and that, "off spring" (the children) of such marriage would become Schedule Tribe persons is not followed in subsequent decisions. The decisions filed by the appellant, as reported in 1. AIR 1996 SC 1011(1) and 2.AIR (SCW)-2012-0-913 by Hon'ble Supreme Court are not applicable to the case on hand, as the appellants father K.S. Chakravathy, originally belongs to OC "Balija" Community. Further the judgment rendered by Hon'ble Supreme Court in Valasamma's case (AIR 1996 SC 1011 (1)) was not followed (impliedly over ruled) in Shoba Haimavathi Devi's case (as reported in (2005 2 SCC 244) where in the Honble Supreme Court has held that the wife cannot acquire the communal status of her husband (as SC/ST as the case may be) by her marriage with him. Similarly the children of inter caste marriages also cannot automatically bet the caste of their parent whom so ever is of lower community. And essentially the children of such marriage is a question of fact to be decided, based on the evidence adduced by the party, but normally the presumption is that the children acquire the communal status of their father, in inter caste marriates, which however is not conclusive not irrebutable. From the above, it can be held that the children if are born to ST mother and non ST father and if they prove that they inhabitated in Tribal areas, suffered all the deprivations, indignities, humilities and handicaps like any other member of the community to which his or her mother belonged. Additionally he was also treated as member of that community to which her mother belonged not only by the community of mother but also by the people outside the community. Any the facts of this case are all together different and hence the judgments cited above are not applicable to the present case. Now in the case on hand Mr. K.S. Chakravarthy, Madanapalle, Chittoor District who is appellants father is "Balija" OC and the appellants failed to prove that he is ST-Yanadi. Similarly they also failed to prove that their mother belongs to Yanadi Community and they lived with their mother and broughtup by her, and that they suffered deprivations, indignities, humilities and handicaps like any other member of the Yanadi Community to which their mother is said to have belonged to.

11. Therefore, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the appeal petition filed by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, Chittoor District does not deserve any interference. Hence, Proceedings of the District Collector, Chittoor issued vide Roc. C3/5455/2008, dt: 06.12.2009, is hereby upheld and the Appeal Petition filed by Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi, is hereby dismissed and the Certificate issued by the then Madanapalle, Chittoor deemed to be cancelled.

12. Consequently, the District Collector, Chittoor shall take necessary action in the matter.

13. The records (containing Roc.C3/5455/2008, dt: 06.12.2009, pages 1-306 cf & 1-18 nf) received from District Collector, Chittoor through the reference 5th read above, are returned herewith in original to District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAM PRAKASH SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Chittoor.
(with original records)

The Tahsildar, Madanapalli, Chittoor District.

[Contd…]

Kum. K. Vijetha and Kum. K. Viritha, daughters of Sri K.S.Chakravarthi,
R/o D.No. 2-249, Kuravanka, Kadiri Road,
Madanapalle town and mandal, Chittoor District.

Sri Velivela Srinivasa Rao, Advocate, H.No.1-8-1/A/2,
Baghlingampally, Hyderabad 500044.

Copy to
The Director, TCR& TI, AP, Hyderabad.
P.S. to Hon'ble Minister (SWE&TWE).
P.S. to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER